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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/085,070	03/01/2002	Richard S. Garber	110413	9119
25944	7590	05/18/2006	EXAMINER	
OLIFF & BERRIDGE, PLC P.O. BOX 19928 ALEXANDRIA, VA 22320			ENSEY, BRIAN	
			ART UNIT	PAPER NUMBER
			2615	

DATE MAILED: 05/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/085,070	GARBER ET AL.	
	Examiner	Art Unit	
	Brian Ensey	2615	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 March 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 4, 6-12, 14, 16, 18, 19 and 31-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4, 6-12, 14, 16, 18, 19 and 31 is/are allowed.
- 6) ☒ Claim(s) 32-34 is/are rejected.
- 7) ☒ Claim(s) 35 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Power U.S. Patent No. 4,095,057 in view of Mattatall U.S. Patent No. 4,379,988.

Regarding claim 32, Power teaches an acoustic test box comprising: a storage compartment to receive at least one hearing aid (4); a transducer (microphone 51 in coupler 7) to detect and convert oscillations (sound produced in the test box) in the storage compartment into electrical signals; a logic circuit coupled to the transducer; and a first visual cue (LED matrix 9) that is activated by the logic circuit if the logic circuit (19) determines that the electrical signals produced by the transducer is indicative that the hearing aid is in operation (See Fig. 1 and col. 1, lines 29-50 and col. 2, lines 14-27 and 39-52). Power does not expressly disclose the acoustic test box is a hearing aid casing wherein the first visual cue indicates the hearing aid has been properly turned off. However, Power teaches the acoustic test box is used to contain a hearing aid in an enclosed environment (See col. 2, lines 19-21). Further, Power teaches a visual cue (LED matrix 9) to indicate proper operation of the hearing aid. The visual cue is the result of two inputs, the generator (1) through the timer (6) and the hearing aid output through discriminator (8). The visual cue would produce a flat line output in the event of no output from the hearing aid indicating the hearing aid is turned off. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention that the acoustic test box of Power is also a case for

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holding a hearing aid and will indicate whether the hearing aid is in an active state or is turned off.

Claims 33 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Power.

Regarding claim 33, Power teaches a method for detecting operation of a hearing aid in an acoustic test box, the method comprising: providing a compartment in the box (4); placing at least one hearing aid (3) in a compartment; using a transducer to convert oscillations in the compartment into electrical signals (microphone 51 in coupler 7); using a logic circuit to determine if the electrical signals are indicative of the hearing aid that is oscillating (sound produced in the test box); and activating a first visual cue if the logic circuit determines that the electrical signals are indicative of the hearing aid that is operating (LED matrix 9) (See Fig. 1 and col. 1, lines 29-50 and col. 2, lines 14-27 and 39-52). Power does not expressly disclose the acoustic test box is a hearing aid casing wherein the first visual cue indicates the hearing aid has been properly turned off. However, Power teaches the acoustic test box is used to contain a hearing aid in an enclosed environment (See col. 2, lines 19-21). Further, Power teaches a visual cue (LED matrix 9) to indicate proper operation of the hearing aid. The visual cue is the result of two inputs, the generator (1) through the timer (6) and the hearing aid output through discriminator (8) (See Fig. 1). The visual cue would produce a flat line output in the event of no output from the hearing aid indicating the hearing aid is turned off. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention that the acoustic test box of Power is also a case for holding a hearing aid and will indicate whether the hearing aid is in an active state or is turned off.

Regarding claim 34, Power teaches the logic circuit compares the electric signals (Input from hearing aid into gate circuit 22) with a reference signal (Input from ramp generator 11 to gate circuit 22 through the trigger 20 and timing circuit 21) to determine if the electric signals are indicative of the hearing aid operating (See Figs. 1 and 2). Power does not expressly disclose the compared signals are indicative of the hearing aid being turned off. However, Power teaches a visual cue (LED matrix 9) to indicate proper operation of the hearing aid. The visual cue is the result of two inputs, the generator (1) through the timer (6) and the hearing aid output through discriminator (8) (See Fig. 1). The visual cue would produce a flat line output in the event of no output from the hearing aid indicating the hearing aid is turned off. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention that the acoustic test box of Power is also a case for holding a hearing aid and will indicate whether the hearing aid is in an active state or is turned off.

#### ***Allowable Subject Matter***

Claims 4, 6-12, 14, 16, 18, 19 and 31 are allowed.

Claim 35 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

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Applicant's arguments filed 3/9/06 have been fully considered but they are not persuasive.

The Examiner agrees that Power is not specifically *concerned with the problem of battery life conservation during periods of non-use (storage)* when a hearing aid is placed in a storage case. However, Power provides an acoustic test box which will provide a visual indication (a flat line response on the LED matrix when the circuit is in operation and the hearing aid is not turned on) that the hearing aid is turned off. The device of Power provides the same result as the applicant utilizing the similar components and therefore solves the same problem of determining if the hearing aid is in operation or not. Since Power solves the same problem of determining the operating status of a hearing aid, it is the opinion of the examiner that Power meets the limitations of the applicants invention as claimed in claims 32-34.

### ***Conclusion***

The Art Unit location of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Group Art Unit 2615.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Ensey whose telephone number is 571-272-7496. The examiner can normally be reached on Monday - Friday 6:30 AM - 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

**Any response to this action should be mailed to:**


Commissioner of Patents and Trademarks  
P.O. Box 1450  
Alexandria, Va. 22313-1450

**Or faxed to:**

(571) 273-8300, for formal communications intended for entry and for informal or draft communications, please label "PROPOSED" or "DRAFT".

Hand-delivered responses should be brought to:

Customer Service Window  
Randolph Building  
401 Dulany Street  
Arlington, VA 22314



**SINH TRAN**  
**SUPERVISORY PATENT EXAMINER**

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BKE

May 02, 2006

